

# PROPOSED AMENDMENT

## HB 1019 # 4

### DIGEST

Public works. Increases the "small project" cap for a public works project from \$150,000 to \$300,000. Unless required by federal or state law, prohibits a public agency from establishing, mandating, or otherwise requiring a wage scale or wage schedule for a public works project. Provides that the following apply to all public works projects: (1) Provides that a public works contract may not be structured other than in four contractor tiers. (2) Provides that each prime contractor on a public works project must perform at least 15% of the total contract price with its own labor, services, or materials. (3) Requires each contractor in each contractor tier to maintain general liability insurance. (4) Requires each contractor in each contractor tier to be qualified by the department of administration or the department of transportation before doing any work on a public works project. (5) Requires certain employees of a public works contract to be "e-verified". (6) Provides that a contractor on a public works project may not pay its employees in cash. (7) Requires a contractor to comply with certain federal and Indiana laws relating to labor. (8) Requires a prime contractor on a public works project that employs 10 or more employees to maintain an ongoing training program for its employees. (9) Requires that the payroll and related records of a contractor in any contractor tier must be preserved by the contractor for 3 years after completion of the project work and be open to inspection by the department of workforce development. Provides that a public agency may conduct an in-person inspection of the information contained in the quarterly wage reports submitted to the department of workforce development for a contractor in any contractor tier working a public works project owned by the public agency. Provides that a person who discloses any information obtained during an inspection commits a Class B misdemeanor. Provides that a public agency that finds a contractor in violation of these requirements may find the contractor to be not responsible for a period of not more than 48 months. Provides that a person aggrieved by a determination that the person is not responsible may file a petition for judicial review of that determination. Provides that a person who falsely classifies an employee under certain statutes commits worker's compensation fraud. Provides for classification of this crime at various levels.

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1       Page 2, between lines 8 and 9, begin a new line block indented and  
2       insert:  
3       **"(5) IC 5-16-13.**  
4       **(6) IC 5-16-14.**  
5       SECTION 3. IC 4-13.6-4-10 IS AMENDED TO READ AS  
6       FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 10. (a) A contractor  
7       having a contract with the division for a public works project may enter  
8       into a subcontract with a value of one hundred fifty thousand dollars  
9       (\$150,000) or more, involving the performance of any part of the  
10      public work upon which the contractor may be engaged only if the  
11      subcontractor has been properly qualified under the terms of this

1 chapter for the work subcontracted.

2 (b) A contractor that enters into a public works contract with an  
3 estimated cost of one hundred fifty thousand dollars (\$150,000) or  
4 more must complete at least ~~twenty~~ **fifteen** percent (~~20%~~) (**15%**) of the  
5 work (measured in dollars of the total contract price) with its own  
6 forces. The director may determine whether a contractor has completed  
7 at least ~~twenty~~ **fifteen** percent (~~20%~~) (**15%**) of the work with its own  
8 forces, and this determination is final and conclusive.

9 (c) The director may find a contractor violating this section to be in  
10 breach of the contract and may employ any legal remedies or  
11 administrative remedies that the department may prescribe by rule or  
12 in the contract documents. The division may develop contract  
13 provisions that assure compliance by contractors with this section and  
14 provide for remedies if a contractor breaches these provisions.

15 SECTION 4. IC 4-13.6-5-4, AS AMENDED BY P.L.172-2011,  
16 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
17 JULY 1, 2015]: Sec. 4. (a) If the estimated cost of a public works  
18 project is less than ~~one three~~ hundred ~~fifty~~ thousand dollars  
19 (~~\$150,000~~), (**\$300,000**), the division may perform the public work  
20 without awarding a public works contract under section 2 of this  
21 chapter. In performing the public work, the division may authorize use  
22 of equipment owned, rented, or leased by the state, may authorize  
23 purchase of materials in the manner provided by law, and may  
24 authorize performance of the public work using employees of the state.

25 (b) The workforce of a state agency may perform a public work  
26 described in subsection (a) only if:

- 27 (1) the workforce, through demonstrated skills, training, or
- 28 expertise, is capable of performing the public work; and
- 29 (2) for a public works project under subsection (a) whose cost is
- 30 estimated to be more than one hundred thousand dollars
- 31 (\$100,000), the agency:

32 (A) publishes a notice under IC 5-3-1 that:

- 33 (i) describes the public work that the agency intends to
- 34 perform with its own workforce; and
- 35 (ii) sets forth the projected cost of each component of the
- 36 public work as described in subsection (a); and
- 37 (B) determines at a public meeting that it is in the public
- 38 interest to perform the public work with the agency's own
- 39 workforce.

40 A public works project performed by an agency's own workforce must

be inspected and accepted as complete in the same manner as a public works project performed under a contract awarded after receiving bids.

(c) If a public works project involves a structure, an improvement, or a facility under the control of an agency, the agency may not artificially divide the project to bring any part of the project under this section.

(d) If a public works project involves a structure, improvement, or facility under the control of the department of natural resources, the department of natural resources may purchase materials for the project in the manner provided by law and without a contract being awarded, and may use its employees to perform the labor and supervision, if:

(1) the department of natural resources uses equipment owned or leased by it; and

(2) the division of engineering of the department of natural resources estimates the cost of the public works project will be less than ~~one three hundred fifty thousand dollars (\$150,000).~~ **(\$300,000).**

(e) If a public works project involves a structure, improvement, or facility under the control of the department of correction, the department of correction may purchase materials for the project in the manner provided by law and use inmates in the custody of the department of correction to perform the labor and use its own employees for supervisory purposes, without awarding a contract, if:

(1) the department of correction uses equipment owned or leased by it; and

(2) the estimated cost of the public works project using employee or inmate labor is less than the greater of:

(A) fifty thousand dollars (\$50,000); or

(B) the project cost limitation set by IC 4-13-2-11.1.

All public works projects covered by this subsection must comply with the remaining provisions of this article, and all plans and specifications for the public works project must be approved by a licensed architect or engineer."

Page 6, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 8. IC 5-16-1-1.5, AS AMENDED BY P.L.6-2012, SECTION 35, IS AMENDED TO READ AS FOLLOWS[EFFECTIVE JULY 1, 2015]: Sec. 1.5. (a) The governing board of any state educational institution, acting on behalf of said institution, may purchase materials in the manner provided by law and perform any work by means of its own employees and owned or leased equipment

in the construction, rehabilitation, extension, maintenance or repair of any building, structure, improvement, or facility, of said institutions, without awarding a contract therefor, whenever the cost of such work shall be estimated to be less than ~~one three hundred fifty thousand~~ dollars ~~(\$150,000)~~. **(\$300,000)**.

(b) The workforce of a state educational institution may perform a public work described in subsection (a) only if:

(1) the workforce, through demonstrated skills, training, or expertise, is capable of performing the public work; and

(2) for a public work project under subsection (a) whose cost is estimated to be more than one hundred thousand dollars (\$100,000), the state educational institution:

(A) publishes a notice under IC 5-3-1 that:

(i) describes the public work that the state educational institution intends to perform with its own workforce; and

(ii) sets forth the projected cost of each component of the public work as described in subsection (a); and

(B) determines at a public meeting that it is in the public interest to perform the public work with the state educational institution's own workforce.

A public work project performed by a state educational institution's own workforce must be inspected and accepted as complete in the same manner as a public work project performed under a contract awarded after receiving bids.

(c) If a public work project involves a structure, an improvement, or a facility under the control of a state educational institution, the state educational institution may not artificially divide the project to bring any part of the project under this section."

Page 6, between lines 31 and 32, begin a new paragraph and insert: "SECTION 11. IC 5-16-7.2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

**Chapter 7.2. Wage Scales for Public Works Projects**

**Sec. 1. (a) This chapter applies to a public works contract awarded by a public agency after June 30, 2015.**

**(b) This chapter does not apply to contracts awarded by the Indiana department of transportation when IC 8-23-9 applies.**

**Sec. 2. As used in this chapter, "applicable public works statute" refers to whichever of the following statutes is applicable to public works projects of the public agency:**

1           **(1) IC 4-13.6.**

2           **(2) This article.**

3           **(3) IC 36-1-12.**

4           **(4) Any other statute applicable to the public works projects**  
5           **of the public agency.**

6           **Sec. 3. As used in this chapter "public agency" has the meaning**  
7           **set forth in IC 5-30-1-11.**

8           **Sec. 4. As used in this chapter, "public works project" refers to**  
9           **a construction project governed by an applicable public works**  
10           **statute.**

11           **Sec. 5. Unless federal or state law provides otherwise, a public**  
12           **agency may not:**

13           **(1) establish;**

14           **(2) mandate; or**

15           **(3) otherwise require;**

16           **a wage scale or wage schedule for a public works contract awarded**  
17           **by the public agency.**

18           **SECTION 12. IC 5-16-13 IS ADDED TO THE INDIANA CODE**  
19           **AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE**  
20           **JULY 1, 2015]:**

21           **Chapter 13. Requirements for Contractors on Public Works**  
22           **Projects**

23           **Sec. 1. (a) This chapter applies only to a public works contract**  
24           **awarded after June 30, 2015.**

25           **(b) The requirements described in this chapter are in addition**  
26           **to requirements for contractors stated in the applicable public**  
27           **works statute. The provisions of an applicable public works statute**  
28           **shall be construed consistently with this chapter, but to the extent**  
29           **an applicable public works statute is inconsistent with this chapter,**  
30           **the provisions of this chapter govern.**

31           **(c) A provision of an invitation for bids, request for proposals,**  
32           **or a public works contract inconsistent with this chapter is void.**

33           **Sec. 2. As used in this chapter, "applicable public works statute"**  
34           **refers to whichever of the following statutes is applicable to public**  
35           **works projects of the public agency:**

36           **(1) IC 4-13.6.**

37           **(2) This article.**

38           **(3) IC 36-1-12.**

39           **(4) Any other statute applicable to the public works projects**  
40           **of the public agency.**

1       **Sec. 3. As used in this chapter, "contractor" refers generally to**  
2 **a contractor in any contractor tier.**

3       **Sec. 4. As used in this chapter, "contractor tier" refers**  
4 **collectively to the following classes of contractors on a public**  
5 **works project:**

6           **(1) "Tier 1 contractor" includes each person that has a**  
7 **contract with the public agency to perform some part of the**  
8 **work on, supply some of the materials for, or supply a service**  
9 **for, a public works project. A person included in this tier is**  
10 **also known as a "prime contractor" or a "general**  
11 **contractor".**

12           **(2) "Tier 2 contractor" includes each person that has a**  
13 **contract with a tier 1 contractor to perform some part of the**  
14 **work on, supply some of the materials for, or supply a service**  
15 **for, a public works project. A person included in this tier is**  
16 **also known as a "subcontractor".**

17           **(3) "Tier 3 contractor" includes each person that has a**  
18 **contract with a tier 2 contractor to perform some part of the**  
19 **work on, supply some of the materials for, or supply a service**  
20 **for, a public works project. A person included in this tier is**  
21 **also known as a "sub-subcontractor".**

22           **(4) "Lower tier contractor" includes each person that has a**  
23 **contract with a tier 3 contractor or lower tier contractor to**  
24 **perform some part of the work on, supply some of the**  
25 **materials for, or supply a service for, a public works project.**  
26 **A person included in this tier is also known as a "lower tier**  
27 **subcontractor".**

28       **Sec. 5. As used in this chapter, "public agency" has the meaning**  
29 **set forth in IC 5-30-1-11.**

30       **Sec. 6. As used in this chapter, "public works project" refers to**  
31 **a construction project governed by an applicable statute.**

32       **Sec. 7. The substance of the provisions of this chapter must be**  
33 **stated or incorporated by reference in each public works contract.**

34       **Sec. 8. A public works project may not be structured other than**  
35 **in the contractor tier structure.**

36       **Sec. 9. Each tier 1 contractor must contribute in:**

- 37           **(1) work performed by the tier 1 contractor's employees;**  
38           **(2) materials supplied directly by the tier 1 contractor;**  
39           **(3) services supplied directly by the tier 1 contractor's**  
40 **employees; or**

(4) any combination of subdivisions (1) through (3);  
at least fifteen percent (15%) of the total contract price of the  
public works project.

**Sec. 10. (a)** This section applies to each contractor in any  
contractor tier of a public works project.

**(b)** A contractor must maintain general liability insurance in an  
amount equal to:

(1) the value of the contractor's contract for the public works  
project; or

(2) such other amount specified by the public agency in the  
contract documents.

**(c)** A contractor must be qualified under either of the following  
before doing any work on a public works project:

(1) IC 4-13.6-4.

(2) IC 8-23-10.

**Sec. 11.** Except as provided in this section, the following apply  
to each contractor in any contractor tier of a public works project:

(1) IC 22-5-1.7. A contractor shall submit, before work begins  
on a public work project, the E-Verify case verification  
number for each individual who will be employed by the  
contractor on the public works project and who is required to  
be verified under IC 22-5-1.7. An individual who is required  
to be verified under IC 22-5-1.7 whose final case result is final  
nonconfirmation may not be employed on the public works  
project.

(2) A contractor may not pay cash to any individual employed  
by the contractor for work done by the individual on the  
public works project.

(3) A contractor must be in compliance with the federal Fair  
Labor Standards Act of 1938, as amended (29 U.S.C. 201-209)  
and IC 22-2-2-1 through IC 22-2-2-8.

(4) A contractor must be in compliance with IC 22-3-5-1 and  
IC 22-3-7-34.

(5) A contractor must be in compliance with IC 22-4-1  
through IC 22-4-39.5.

(6) A contractor must be in compliance with IC 4-13-18-1  
through IC 4-13-18-7.

(7) A contractor must comply with section 12 of this chapter,  
if applicable.

**Sec. 12. (a)** This section applies only to a tier 1 contractor that

1 employs ten (10) or more employees.

2 (b) A contractor must do the following:

3 (1) Maintain an ongoing training program for its employees  
4 that it requires employees to attend.

5 (2) Certify to the public agency the existence and operation of  
6 the program:

7 (A) at the time the public works contract is entered into;  
8 and

9 (B) every three (3) months after the contract is awarded  
10 until substantial completion of the project.

11 (c) A contractor may comply with this section through any of  
12 the following:

13 (1) A trade union apprenticeship program.

14 (2) A program offered by Ivy Tech Community College of  
15 Indiana.

16 (3) A program offered by Vincennes University.

17 (4) A program established by the contractor not later than  
18 one (1) year before the date of the contract award.

19 Sec. 13. The payroll and related records of a contractor in any  
20 contractor tier must be:

21 (1) preserved by the contractor for a period of three (3) years  
22 after completion of the project work; and

23 (2) open to inspection by the department of workforce  
24 development.

25 Sec. 14. A public agency that is the owner of a public works  
26 project may do the following:

27 (1) The public agency may request in writing an in-person  
28 inspection of information that is contained in the quarterly  
29 wage reports submitted to the department of workforce  
30 development under IC 22-4-19-6(b) for a contractor in any  
31 contractor tier working on the public agency's public works  
32 project.

33 (2) The chief executive officer of the public agency shall sign  
34 the request described in subdivision (1). The request must:

35 (A) identify the specific contractor whose quarterly wage  
36 reports the public agency seeks to inspect;

37 (B) identify the individuals who will conduct the inspection  
38 on the public agency's behalf; and

39 (C) contain a verification that the public agency and  
40 anyone acting on the public agency's behalf will be bound



by confidentiality provisions and penalties for disclosure under IC 22-4-19-6.

(3) The public agency must inspect the reports requested in subdivision (1) in person at the offices of the department of workforce development after making an appointment to do so.

(4) The public agency may not at any time during or after the inspection described in subdivision (3) record, copy, make a written record, or otherwise commit an act that results in the removal of a confidential record from the offices of the department of workforce development.

(5) An employee or agent of the public agency may not disclose in any manner any information obtained during an inspection described in subdivision (3).

(6) A person who discloses any information obtained during an inspection described in subdivision (3) commits a Class B misdemeanor.

**Sec. 15. (a)** This section applies to a contractor in any contractor tier of a public works project.

(b) A public agency that finds a contractor has violated a provision of this chapter shall find the contractor not responsible for a period of not more than forty-eight (48) months from the date of substantial completion of the public works project.

(c) The public agency that makes a finding under subsection (b) shall determine the length of time the contractor is considered not responsible based on the severity of the violation.

SECTION 13. IC 5-16-14 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

**Chapter 14. Determination That a Contractor for a Public Works Project Is Not Responsible**

**Sec. 1. (a)** This chapter applies only to a public works contract awarded after June 30, 2015.

(b) The provisions of an applicable public works statute shall be construed consistently with this chapter, but to the extent an applicable public works statute is inconsistent with this chapter, the provisions of this chapter govern.

(c) A provision of an invitation for bids, request for proposals, or public works contract inconsistent with this chapter is void.

**Sec. 2.** The definitions in IC 5-16-13 apply throughout this

1 chapter.

2 Sec. 3. A determination that a contractor is not responsible is  
3 final and conclusive, and subject to judicial review under this  
4 chapter.

5 Sec. 4. (a) A person aggrieved by a determination that the  
6 person is not responsible may file a petition for judicial review of  
7 that determination in a court of appropriate jurisdiction.

8 (b) The court shall grant relief only if it determines that a  
9 person seeking judicial relief under this chapter has been  
10 substantially prejudiced by a determination that is any of the  
11 following:

12 (1) Arbitrary, capricious, an abuse of discretion, or otherwise  
13 not in accordance with law.

14 (2) Contrary to constitutional right, power, privilege, or  
15 immunity.

16 (3) In excess of statutory jurisdiction, authority, or  
17 limitations, or short of statutory right.

18 (4) Without observance of procedure required by law.

19 (5) Unsupported by substantial evidence.

20 Sec. 5. The burden of demonstrating the invalidity of the  
21 determination is on the person asserting the invalidity.

22 Sec. 6. (a) If the court finds that a person has been substantially  
23 prejudiced by a determination, the court may set aside the  
24 determination. The court may remand the case to the  
25 governmental body for further proceedings and compel an action  
26 by the governmental body that has been unreasonably delayed or  
27 unlawfully withheld.

28 (b) A court may not award damages in an action under this  
29 chapter."

30 Page 7, between lines 28 and 29, begin a new paragraph and insert:  
31 "SECTION 17. IC 5-30-8-7 IS ADDED TO THE INDIANA CODE  
32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
33 1, 2015]: Sec. 7. IC 5-16-13 and IC 5-16-14 apply to a contract  
34 awarded under this article.

35 SECTION 18. IC 5-32-1-4 IS ADDED TO THE INDIANA CODE  
36 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
37 1, 2015]: Sec. 4. IC 5-16-13 and IC 5-16-14 apply to a contract  
38 awarded under this article, regardless of which applicable public  
39 works statute applies to the contract."

40 Page 10, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 26. IC 22-5-1.7-2, AS AMENDED BY P.L.6-2012, SECTION 157, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. As used in this chapter, "contractor" means a person that **satisfies either of the following:**

**(1) Is a person that:**

**(A)** has entered into; or

~~(2)~~ **(B)** is attempting to enter into;

a public contract for services with a state agency or political subdivision.

**(2) Is a person that:**

**(A) has entered into; or**

**(B) is attempting to enter into;**

**a contract for a public works project with a public agency.**

SECTION 27. IC 22-5-1.7-6.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 6.2. As used in this chapter, "public agency" has the meaning set forth in IC 5-30-1-11.**

SECTION 28. IC 22-5-1.7-6.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 6.4. As used in this chapter, "public works project" has the meaning set forth in IC 5-16-13-6.**

SECTION 29. IC 22-5-1.7-7, AS ADDED BY P.L.171-2011, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. As used in this chapter, "state agency" has the meaning set forth in ~~IC 4-6-3-1.~~ **IC 4-13-1-1.**

SECTION 30. IC 22-5-1.7-8, AS ADDED BY P.L.171-2011, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. As used in this chapter, "subcontractor" means a person that:

(1) is a party to a contract with a contractor; and

(2) provides services **or work** for work the contractor is performing under **either of the following:**

**(A)** A public contract for services.

**(B) A contract for a public works project with a public agency.**

SECTION 31. IC 22-5-1.7-11.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 11.1. This section applies only to a contract for a public works project entered into or renewed after June 30, 2015. A public agency may not enter into or renew a**

contract for a public works project with a contractor unless:

(1) the contract contains:

(A) a provision requiring the contractor to enroll in and verify the work eligibility status of all newly hired employees of the contractor through the E-Verify program; and

(B) a provision that provides that a contractor is not required to verify the work eligibility status of all newly hired employees of the contractor through the E-Verify program if the E-Verify program no longer exists; and

(2) the contractor signs an affidavit affirming that the contractor does not knowingly employ an unauthorized alien.

SECTION 32. IC 22-5-1.7-12, AS ADDED BY P.L.171-2011, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 12. (a) A contractor or a subcontractor may not:

(1) knowingly employ or contract with an unauthorized alien; or  
(2) retain an employee or contract with a person that the contractor or subcontractor subsequently learns is an unauthorized alien.

(b) If a contractor violates this section, the state agency, ~~or~~ political subdivision, **or public agency** shall require the contractor to remedy the violation not later than thirty (30) days after the date the state agency, ~~or~~ political subdivision, **or public agency** notifies the contractor of the violation.

(c) There is a rebuttable presumption that a contractor did not knowingly employ an unauthorized alien if the contractor verified the work eligibility status of the employee through the E-Verify program.

SECTION 33. IC 22-5-1.7-13, AS ADDED BY P.L.171-2011, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 13. (a) Except as provided in subsection (b), if the contractor fails to remedy the violation within the thirty (30) day period provided under section 12(b) of this chapter, the **following apply**:

(1) **The** state agency or political subdivision shall terminate the public contract for services with the contractor for breach of the public contract for services.

(2) **The public agency shall terminate the contract for a public works project with the contractor for breach of the contract for the public works project.**

(b) If a contractor employs or contracts with an unauthorized alien, ~~but~~ the **following apply**:

(1) If the state agency or political subdivision (whichever the contractor has a public contract for services with) determines that terminating the public contract for services under subsection (a) would be detrimental to the public interest or public property, the state agency or political subdivision may allow the public contract for services to remain in effect until the state agency or political subdivision procures a new contractor.

**(2) If the public agency determines that terminating the contract for a public works project under subsection (a) would be detrimental to the public interest or public property, the public agency may allow the contract for the public works project to remain in effect until the public agency procures a new contractor.**

(c) If a state agency or political subdivision terminates a public contract for services under subsection (a), the contractor is liable to the state agency or political subdivision for actual damages.

**(d) If a public agency terminates a contract for a public works project under subsection (a), the contractor is liable to the public agency for actual damages.**

SECTION 34. IC 22-5-1.7-14, AS ADDED BY P.L.171-2011, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 14. A contractor may file an action with a circuit or superior court having jurisdiction in the county to challenge:

(1) a notice of a violation to the contractor under section 12(b) of this chapter not later than twenty (20) days after the contractor receives the notice; or

(2) a termination of a:

**(A)** public contract for services under section 13(a) of this chapter not later than twenty (20) days after the state agency or political subdivision terminates the public contract for services with the contractor; **or**

**(B) contract for a public works project under section 13(a) of this chapter not later than twenty (20) days after the public agency terminates the contract for the public works project with the contractor;**

**whichever is applicable.**

SECTION 35. IC 22-5-1.7-15, AS ADDED BY P.L.171-2011, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 15. If a contractor uses a subcontractor to provide services for work the contractor is performing under a public contract

for services **or a contract for a public works project**, the subcontractor shall certify to the contractor in a manner consistent with federal law that the subcontractor, at the time of certification:

(1) does not knowingly employ or contract with an unauthorized alien; and

(2) has enrolled and is participating in the E-Verify program.

SECTION 36. IC 35-43-5-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 21. (a) A person who, with intent to obtain worker's compensation coverage as required by IC 22-3-2 through IC 22-3-7, falsely classifies an employee as one (1) of the following commits worker's compensation fraud:**

**(1) An independent contractor.**

**(2) A sole proprietor.**

**(3) An owner.**

**(4) A partner.**

**(5) An officer.**

**(6) A member in a limited liability company.**

**(b) Except as described in subsections (c) through (e), the offense described in subsection (a) is a Class A misdemeanor.**

**(c) The offense described in subsection (a) is a Level 6 felony if the:**

**(1) value of the obligation is less than one thousand dollars (\$1,000); or**

**(2) number of employees not covered by worker's compensation coverage is less than five (5).**

**(d) The offense described in subsection (a) is a Level 5 felony if the:**

**(1) value of the obligation is at least one thousand dollars (\$1,000) and less than five thousand dollars (\$5,000); or**

**(2) number of employees not covered by worker's compensation coverage is at least five (5) and less than fifty (50).**

**(e) The offense described in subsection (a) is a Level 3 felony if the:**

**(1) value of the obligation is at least five thousand dollars (\$5,000); or**

**(2) number of employees not covered by worker's compensation coverage is at least fifty (50)."**

Page 10, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 40. IC 35-52-5-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 9.5. IC 5-16-13-14 defines a crime concerning quarterly wage reports.**

SECTION 41. IC 36-1-12-3, AS AMENDED BY P.L.172-2011, SECTION 138, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) The board may purchase or lease materials in the manner provided in IC 5-22 and perform any public work, by means of its own workforce, without awarding a contract whenever the cost of that public work project is estimated to be less than ~~one three hundred fifty thousand dollars (\$150,000).~~ **(\$300,000).** Before a board may perform any work under this section by means of its own workforce, the political subdivision or agency must have a group of employees on its staff who are capable of performing the construction, maintenance, and repair applicable to that work. For purposes of this subsection, the cost of a public work project includes:

- (1) the actual cost of materials, labor, equipment, and rental;
- (2) a reasonable rate for use of trucks and heavy equipment owned; and
- (3) all other expenses incidental to the performance of the project.

(b) This subsection applies only to a municipality or a county. The workforce of a municipality or county may perform a public work described in subsection (a) only if:

- (1) the workforce, through demonstrated skills, training, or expertise, is capable of performing the public work; and
- (2) for a public work project under subsection (a) whose cost is estimated to be more than one hundred thousand dollars (\$100,000), the board:

(A) publishes a notice under IC 5-3-1 that:

- (i) describes the public work that the board intends to perform with its own workforce; and
- (ii) sets forth the projected cost of each component of the public work as described in subsection (a); and

(B) determines at a public meeting that it is in the public interest to perform the public work with the board's own workforce.

A public work project performed by a board's own workforce must be inspected and accepted as complete in the same manner as a public work project performed under a contract awarded after receiving bids.

(c) When the project involves the rental of equipment with an operator furnished by the owner, or the installation or application of materials by the supplier of the materials, the project is considered to be a public work project and subject to this chapter. However, an annual contract may be awarded for equipment rental and materials to be installed or applied during a calendar or fiscal year if the proposed project or projects are described in the bid specifications.

(d) A board of aviation commissioners or an airport authority board may purchase or lease materials in the manner provided in IC 5-22 and perform any public work by means of its own workforce and owned or leased equipment, in the construction, maintenance, and repair of any airport roadway, runway, taxiway, or aircraft parking apron whenever the cost of that public work project is estimated to be less than one hundred thousand dollars (\$100,000).

(e) Municipal and county hospitals must comply with this chapter for all contracts for public work that are financed in whole or in part with cumulative building fund revenue, as provided in section 1(c) of this chapter. However, if the cost of the public work is estimated to be less than fifty thousand dollars (\$50,000), as reflected in the board minutes, the hospital board may have the public work done without receiving bids, by purchasing the materials and performing the work by means of its own workforce and owned or leased equipment.

(f) If a public works project involves a structure, an improvement, or a facility under the control of a department (as defined in IC 4-3-19-2(2)), the department may not artificially divide the project to bring any part of the project under this section."

Page 10, line 17, reset in roman "(a) A contract by".

Page 10, line 18, reset in roman "the board for public work must conform to".

Page 10, line 19, after "IC 5-16-7." insert "**IC 5-16-13.**".

Page 10, line 20, reset in roman "(b)".

Renumber all SECTIONS consecutively.

(Reference is to HB 1019 as printed February 17, 2015.)